

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-107

UNITED STATES GOVERNMENT

Memorandum

TO : DIR, D/DIR

DATE: 19 Feb 1965

FROM : M02

NSA review
completed

SUBJECT: Effect Upon NSA of H. R. 4845

1. On 11 February Chairman Brooks of the House Government Activities Subcommittee introduced H. R. 4845. This bill would vest in the Administrator of GSA substantial control over the purchase, lease, transfer, maintenance, and operation of ADP equipment of the Federal Government, including the equipment of Government contractors. The bill has been revised in an attempt to overcome the objections of DoD and numerous other agencies with respect to the imposition of external control over their internal operations.

2. Congressman Brooks explains the objectives of his bill on page 2585-86 of the inclosed Record. Of particular interest are his statements on page 2586 (marked) concerning the limitations on the authority of GSA; the continued authority under the bill of each agency to determine its own ADP requirements; and the intent of the bill not to include "specialized scientific or specially designed military ADP system components" within the bill's coordination procedures.

3. The bill does contain provisions which recognize and retain the management and program responsibilities of those agencies which use ADP equipment. Subsection III. g. (beginning on line 16 of page 5) provides that: (a) the Administrator's authority shall be subject to direction by the President and to policy control by the Bureau of the Budget; (b) the Administrator's authority shall not be construed as to impair or interfere with the determination by agencies of their ADP equipment requirements; (c) the Administrator shall not attempt to control in any way the use made of ADP equipment by an agency; and (d) the Administrator shall provide adequate notice with respect to each determination specifically affecting an agency or its ADP equipment and, in the absence of mutual agreement between the Administrator and the agency concerned, the Administrator's determination shall be subject to review by the Bureau of the Budget unless the President otherwise directs. In addition, Subsection III. a. 2. (beginning on line 17 of page 2) provides that the Administrator may delegate to a Federal agency authority to lease, purchase, maintain, or operate ADP equipment when such action is determined to be necessary for the efficiency of operations or to be essential to national defense or national security.

4. It is difficult, however, to reconcile completely the provisions in Subsection III. g. noted above with the broad authority given GSA in other subsections



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of the bill. Further, no language exists in the bill to exclude the special purpose ADP systems which, according to the remarks of Congressman Brooks, are not to be included in the coordination procedures of the bill.

5. It is recognized that the bill places limits on the authority of GSA. However, the responsibility assigned to GSA for centralized management of ADP equipment would still overlap the responsibility of SECDEF and DIRNSA for the conduct of NSA's cryptologic missions in view of the vital role played by ADP systems in the accomplishment of these missions. Further, it appears that those provisions in the bill to establish a centralized ADP fund for the Government and to authorize the GSA to exercise centralized management of Federal ADP equipment are not reconcilable with the responsibility of DoD and NSA to perform urgent cryptologic activities with direct ADP assistance and to safeguard the conduct of these sensitive activities.

6. The alternative courses of action are:

- a. Request that NSA be specifically exempted from the bill.
- b. Suggest language changes which would satisfy NSA's requirements without exempting the Agency from the provisions of the bill.
- c. Obtain assurances from the Director of the Bureau of the Budget that the implementation of the bill will not require disclosure of sensitive cryptologic information and that the Administrator of GSA will delegate authority to the Director, NSA, to procure, maintain, and manage ADP equipment to carry out NSA's cryptologic missions.

7. The most desirable of the available alternatives is to have NSA specifically exempted from the provisions of H. R. 4845. The inclosed draft memorandum to Dr. Fubini recommends this course of action.

8. I am maintaining close liaison with the Legislative Counsel of CIA and the Assistant General Counsel (Logistics) of DoD to coordinate our respective views. DoD and CIA have not yet formulated their positions on the revised bill.

9. It may be that Congressman Brooks may be amenable to excluding agencies such as NSA, CIA, and FBI from the bill or to excluding special purpose ADP equipment of these agencies from the bill. Prior to approaching the Congressman, however, we would need to obtain concurrence from the BoB.

10. Congressman Brooks states that he will soon announce the dates of hearings by his subcommittee on this legislation.


Legal Advisor

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List of Incls Attached